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March 12, 2004

**VIA ELECTRONIC DELIVERY**

Jean A. Webb  
Secretary to the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

**Re: Application for Amendment to CFTC Order Registering LCH as a  
Derivatives Clearing Organization**

Dear Ms. Webb:

The Chicago Mercantile Exchange Inc. ("CME") welcomes the opportunity to comment upon the "Application for Amendment to Commodity Futures Trading Commission (the "Commission") Order Registering LCH.Cleartnet Ltd. ("LCH") as a Derivatives Clearing Organization" (the "Application").

Based upon our review of the Application, LCH does not explain or even comment, except obliquely in footnote 15, on the most significant aspect of its proposal. The UK and US clearing operations of LCH will be maintained in the same enterprise. In effect, cross border clearing will be available immediately for any clearing member with positions on European and US exchanges cleared by LCH. LCH apparently will be able to margin the entire portfolio of such proprietary accounts with appropriate risk offsets across exchanges and national borders. In addition, LCH may hold all supporting margin collateral in non-US jurisdictions. Therefore, it can be expected that the net liquidating value and long option value held in UK accounts will be taken into account in assessing margin requirements on US positions.

LCH assures the Commission that: "As an *initial matter*, LCH intends to hold customer funds in US Customer Accounts in the United States." (Application at p. 7.) The assurance that all funds deposited by US customers to support US positions can easily be made meaningless if no funds are required to support US positions because of cross border portfolio margining. The assurance that "Customer segregated accounts for such US Exchange business . . . will not be commingled with . . . customer accounts for non-US Exchange business . . ." is not a clear statement that the US DCO will preclude cross border portfolio margining for customers. (Application at p. 7.) Commingling generally refers to a mixing of the collateral, not the netting

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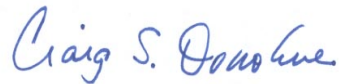
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of risk exposure. We think it would be valuable to clarify LCH's commitment on this point and to ensure that its *initial* assurance cannot be unilaterally reversed.

We believe that the Commission should satisfy itself that US customers are adequately protected in the event of a bankruptcy of a clearing member whose pool of margin collateral is held in a non-US jurisdiction. In this respect, we note that LCH proposes a "ring fencing" arrangement under which any non-cash US margin provided by a US member firm to LCH could be sold by LCH in the event of the US member firm's insolvency. However, it is not clear that any proceeds remaining in the US customer account at LCH and subject to being returned to a UK bankruptcy trustee would receive the bankruptcy treatment required by Part 190 of the Commission's regulations. CME requests the Commission to ensure that, under the proposed "ring fencing" arrangement, no US customers will be disadvantaged in any respect as a result of a clearing member's liquidation under English law.

Thank you for the opportunity to comment upon the Application. If you have any questions or comments, please do not hesitate to contact me, Matthew F. Kluchenek, Director and Associate General Counsel, at (312) 338-2861, or Jerrold E. Salzman, at (312) 222-5131.

Respectfully submitted,



Craig S. Donohue  
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